CALIFORNIA CODE OF REGULATIONS

TITLE 8: Division 1, Chapter 7, Subchapter 1, Article 2

(As Submitted to the Office of Administrative Law)

14300. Purpose.

The purpose of this rule (Article 2) is to require employers to record work-related fatalities, injuries and illnesses.

Note 1: Recording a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that a Cal/OSHA regulation has been violated, or that the employee is eligible for workers' compensation or other benefits.

Note 2: All employers covered by the California Occupational Safety and Health Act are covered by the provisions of Article 2. However, because of the partial exemptions provided by Sections 14300.1 and 14300.2, most employers do not have to keep OSHA injury and illness records unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. For example, employers with 10 or fewer employees and establishments in certain industry classifications listed in Section 14300.2, Appendix A, are partially exempt from keeping Cal/OSHA injury and illness records.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.1. Partial Exemption for Employers with 10 or Fewer Employees.

(a) Basic requirement.

(1) If your company had ten (10) or fewer employees at all times during the last calendar year, you do not need to keep Cal/OSHA injury and illness records unless OSHA or the BLS informs you in writing that you must keep records under the provisions of Section 14300.41 or Section 14300.42. However, all employers must continue to file reports of occupational injuries and illnesses with the Division of Labor Statistics and Research as required by Article 1 of this subchapter, and to immediately report to the Division of Occupational Safety and Health any workplace incident that results in serious injury or illness, or death, as required by Title 8 Section 342.

(2) If your company had more than ten (10) employees at any time during the last calendar year, you must keep Cal/OSHA injury and illness records unless your establishment is classified as a partially exempt industry under Section 14300.2.

(b) Implementation.

(1) Is the partial exemption for size based on the size of my entire company or on the size of an individual establishment?

The partial exemption for size is based on the number of employees in the entire company.

(2) How do I determine the size of my company to find out if I qualify for the partial exemption for size?

To determine if you are exempt because of size, you need to determine your company's peak employment during the last calendar year. If you had 10 or fewer employees at all times in the last calendar year, your company qualifies for the partial exemption for size.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.2. Partial Exemption for Establishments in Certain Industries.

(a) Basic requirement.

(1) If you are a public or private sector employer and all of your establishments are classified in the retail, service, finance, insurance or real estate industries listed in Table 1 in Appendix A of this section, you do not need to keep Cal/OSHA injury and illness records required by Article 2 unless the government asks you to keep the records under Section 14300.41 or Section 14300.42. However, all employers must report to the Division of Occupational Safety and Health any workplace incident that results in a serious injury or illness, or death, as required at Title 8 Section 342.

(2) If one or more of your establishments are classified in a non-exempt industry, you must keep Cal/OSHA injury and illness records required by Article 2 for all such establishments except those partially exempted because of size under Section 14300.1.

(b) Implementation.

(1) Does the partial industry classification exemption apply only to the types of establishments in the retail, service, finance, insurance or real estate industries listed in Table 1?

Yes. Establishments classified in agriculture; mining; construction; manufacturing; transportation; communication, electric, gas and sanitary services; or wholesale trade, and those establishments in the retail, service, finance, insurance and real estate industries not specifically listed in Table 1 in Appendix A are not eligible for the partial industry classification exemption.

(2) Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of individual establishments operated by my company?

The partial industry classification exemption applies to individual establishments. If a company has several establishments engaged in different classes of activities, some of the company's establishments may be required to keep records, while others may be exempt.

(3) How do I determine the Standard Industrial Classification code for my company or for individual establishments?

You determine your Standard Industrial Classification (SIC) code by using the Standard Industrial Classification Manual, Executive Office of the President, Office of Management and Budget. You may contact the nearest office of the Division of Occupational Safety and Health for help in determining your SIC code. The SIC Manual can also be viewed at the Internet site for OSHA, www.osha.gov.

Appendix A to Section 14300.2

Public and private sector employers are not required to keep Cal/OSHA injury and illness records for any establishment classified in the following Standard Industrial Classification (SIC) codes, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. All employers, including those partially exempted by reason of size or industry classification, must report to the Division of Occupational Safety and Health any workplace incident that results in a serious injury or illness, or death, as required at Title 8 Section 342.

TABLE 1

PARTIALLY EXEMPT INDUSTRIES IN CALIFORNIA

SIC Code	Industry Description	SIC Code	Industry Description
525	Hardware Stores	731	Advertising Services
542	Meat and Fish Markets	732	Credit Reporting and Collection Services
544	Candy, Nut, and Confectionery Stores	733	Mailing, Reproduction and Stenographic
545	Dairy Products Stores		Services
546	Retail Bakeries	737	Computer and Data Processing Services
549	Miscellaneous Food stores	738	Miscellaneous Business Services
551	New and Used car Dealers	764	Reupholstery and Furniture Repair
552	Used Car Dealers	782	Motion Picture Distribution and Allied
554	Gasoline Service Stations		Services
557	Motorcycle Dealers	783	Motion Picture Theaters
56	Apparel and Accessory Stores	784	Video Tape Rental
573	Radio, Television, and Computer Stores	791	Dance Studios, Schools, and Halls
58	Eating and Drinking Places	792	Producers, Orchestras, Entertainers
591	Drug Stores and Proprietary Stores	793	Bowling Centers
592	Liquor Stores	801	Offices and Clinics of Medical Doctors
594	Miscellaneous Shopping Goods Stores	802	Offices and Clinics of Dentists
599	Retail Stores, Not Elsewhere Classified	803	Offices of Osteopathic
60	Depository Institutions (banks and	804	Offices of Other Health Practitioners
	savings institutions)	807	Medical and Dental Laboratories
61	Nondepository	809	Health and Allied Services, Not
62	Security and Commodity Brokers		Elsewhere Classified
63	Insurance Carriers	81	Legal Services
64	Insurance Agents, Brokers and Services	82	Educational Services (schools, colleges,
653	Real Estate Agents and Managers		universities and libraries)
654	Title Abstract Offices	832	Individual and Family Services
67	Holding and Other Investment Offices	835	Child Day Care Services
722	Photographic Studios, Portrait	839	Social Services, Not Elsewhere Classified
723	Beauty Shops	841	Museums and Art Galleries
724	Barber Shops	86	Membership Organizations
725	Shoe Repair and Shoeshine Parlors	87	Engineering, Accounting, Research,
726	Funeral Service and Crematories		Management, and Related Services
729	Miscellaneous Personal Services	899	Services, Not Elsewhere Classified

NOTE: In California, establishments in SIC Code 781 (Motion Picture Production and Allied Services) are required to record. Federal law does not require these establishments to record. This is the only difference between the list of establishments shown in Table 1 above and the list shown in the equivalent federal rule at 29 CFR 1904.2.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.3. Keeping Records for More than One Agency.

If you create records to comply with another government agency's injury and illness recordkeeping requirements, OSHA will consider those records as meeting OSHA's recordkeeping requirements if OSHA accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information as this article requires you to record. You may contact the nearest office of the Division of Occupational Safety and Health for help in determining whether your records meet the requirements of this article.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.4. Recording Criteria.

(a) Basic requirement. Each employer required by this article to keep records of fatalities, injuries, and illnesses must record each fatality, injury and illness that:

(1) Is work-related; and

(2) Is a new case; and

(3) Meets one or more of the general recording criteria of Section 14300.7 or the application to specific cases of Section 14300.8 through Section 14300.12.

(b) Implementation.

What sections of this rule describe recording criteria for recording work-related injuries and illnesses?

The list below indicates which sections of the rule address each topic

(1) Determination of work-relatedness. See Section 14300. 5;

(2) Determination of a new case. See Section 14300.6;

(3) General recording criteria. See Section 14300.7; and

(4) Additional criteria. (Needlestick and sharps injury cases, medical removal cases, hearing loss cases, tuberculosis cases, and musculoskeletal disorder cases.) See Section 14300.8 though Section 14300.12.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.5. Determination of Work-Relatedness.

(a) Basic requirement. You must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in Section 14300.5(b)(2) specifically applies.

(b) Implementation.

(1) What is the "work environment"?

Work environment is defined as "the establishment and other locations where one or more employees are working or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of his or her work."

(2) Are there situations where an injury or illness occurs in the work environment and is not considered work-related?

Yes. An injury or illness occurring in the work environment that falls under one of the following exceptions is not work-related, and therefore is not recordable:

(A) At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.

(B) The injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment.

(C) The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.

(D) The injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption (whether bought on the employer's premises or brought in). For example, if the employee is injured by choking on a sandwich while in the employer's establishment, the case would not be considered work-related.

Note: If the employee is made ill by ingesting food contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case would be considered work-related.

(E) The injury or illness is solely the result of an employee doing personal tasks (unrelated to their employment) at the establishment outside of the employee's assigned working hours.

(F) The injury or illness is solely the result of personal grooming, self-medication for a non-work-related condition, or is intentionally self-inflicted.

(G) The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.

(H) The illness is the common cold or flu (Note: contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work-related if the employee is infected at work).

(I) The illness is a mental illness. Mental illness will not be considered work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related.

(3) How do I handle a case if it is not obvious whether the precipitating event or exposure occurred in the work environment or occurred away from work?

In these situations, you must evaluate the employee's work duties and environment to decide whether or not one or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing condition.

(4) How do I know if an event or exposure in the work environment "significantly aggravated" a pre-existing injury or illness?

A pre-existing injury or illness has been significantly aggravated, for purposes of Cal/OSHA injury and illness recordkeeping required by this Article, when an event or exposure in the work environment results in any of the following:

(A) Death, provided that the pre-existing injury or illness would likely not have resulted in death but for the occupational event or exposure.

(B) Loss of consciousness, provided that the pre-existing injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.

(C) One or more days away from work, or days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.

(D) Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.

(5) Which injuries and illnesses are considered pre-existing conditions?

An injury or illness is a pre-existing condition if it resulted solely from a non-work-related event or exposure that occurred outside the work environment.

(6) How do I decide whether an injury or illness is work-related if the employee is on travel status at the time the injury or illness occurs?

Injuries and illnesses that occur while an employee is on travel status are work-related if, at the time of the injury or illness, the employee was engaged in work activities "in the interest of the employer." Examples of such activities include travel to and from customer contacts, conducting job tasks, and entertaining or being entertained to transact, discuss, or promote business (work-related entertainment includes only entertainment activities being engaged in at the direction of the employer).

Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one of the following exceptions:

EXCEPTION 1: When a traveling employee checks into a hotel, motel, or other temporary residence, he or she establishes a "home away from home." You must evaluate the employee's activities after he or she checks into the hotel, motel, or other temporary residence for their work-relatedness in the same manner as you evaluate the activities of a non-traveling employee. When the employee checks into the temporary residence, he or she is considered to have left the work environment. When the employee begins work each day, he or she re-enters the work environment. If the employee has established a "home away from home" and is reporting to a fixed worksite each day, you also do not consider injuries or illnesses work-related if they occur while the employee is commuting between the temporary residence and the job location.

EXCEPTION 2: Injuries or illnesses are not considered work-related if they occur while the employee is on a personal detour from a reasonably direct route of travel (e.g., has taken a side trip for personal reasons).

(7) How do I decide if a case is work-related when the employee is working at home?

Injuries and illnesses that occur while an employee is working at home, including work in a home office, will be considered work-related if the injury or illness occurs while the employee is performing work for pay or compensation in the home, and the injury or illness is directly related to the performance of work rather than to the general home environment or setting. For example, if an employee drops a box of work documents and injures his or her foot, the case is considered work-related. If an employee's fingernail is punctured by a needle from a sewing machine used to perform garment work at home,

becomes infected and requires medical treatment, the injury is considered work-related. If an employee is injured because he or she trips on the family dog while rushing to answer a work phone call, the case is not considered work-related. If an employee working at home is electrocuted because of faulty home wiring, the injury is not considered work-related.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.6. Determination of New Cases.

(a) Basic requirement. You must consider an injury or illness to be a "new case" if:

(1) The employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body, or

(2) The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

(b) Implementation.

(1) When an employee experiences the signs or symptoms of a chronic work-related illness, do I need to consider each recurrence of signs or symptoms to be a new case?

No. For occupational illnesses where the signs or symptoms may recur or continue in the absence of an exposure in the workplace, the case must only be recorded once. Examples may include occupational cancer, asbestosis, byssinosis and silicosis.

(2) When an employee experiences the signs or symptoms of an injury or illness as a result of an event or exposure in the workplace, such as an episode of occupational asthma, must I treat the episode as a new case?

Yes. Because the episode or recurrence was caused by an event or exposure in the workplace, the incident must be treated as a new case.

(3) May I rely on a physician or other licensed health care professional to determine whether a case is a new case or a recurrence of an old case?

You are not required to seek the advice of a physician or other licensed health care professional. However, if you do seek such advice, you must follow the physician or other licensed health care professional's recommendation about whether the case is a new case or a recurrence. If you receive recommendations from two or more physicians or other licensed health care professionals, you must make a decision as to which

recommendation is the most authoritative (best documented, best reasoned, or most authoritative), and record the case based upon that recommendation.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.7. General Recording Criteria.

(a) Basic requirement. You must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if it results in any of the following as detailed in subsections (b)(2) through (b)(6) of this section: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. You must also consider a case to meet the general recording criteria if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional as detailed in subsection (b)(7) of this section, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

(b) Implementation.

(1) How do I decide if a case meets one or more of the general recording criteria?

A work-related injury or illness must be recorded if it results in one or more of the following:

(A) Death, See Section 14300.7(b)(2)

(B) Days away from work, See Section 14300.7(b)(3)

(C) Restricted work or transfer to another job, See Section 14300.7(b)(4)

(D) Medical treatment beyond first aid, See Section 14300.7(b)(5)

(E) Loss of consciousness, See Section 14300.7(b)(6)

(F) A significant injury or illness diagnosed by a physician or other licensed health care professional. See Section 14300.7(b)(7)

(2) How do I record a work-related injury or illness that results in a fatality?

You must record an injury or illness that results in a fatality, as defined in Section 14300.46 of this Article, by entering a mark on the Cal/OSHA Form 300 in the column labeled for cases resulting in death. You must also report any work-related fatality or serious injury or illness to the Division of Occupational Safety and Health within eight (8) hours, as required by Title 8 Section 342.

(3) How do I record a work-related injury or illness that results in days away from work?

When an injury or illness involves one or more days away from work, you must record the injury or illness on the Cal/OSHA Form 300 with a mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, you must enter an estimate of the days that the employee will be away, and update the day count when the actual number of days is known.

(A) Do I count the day on which the injury occurred or the illness began?

No. You begin counting days away on the day after the injury occurred or the illness began.

(B) How do I record an injury or illness when a physician or other licensed health care professional recommends that the worker stay at home but the employee comes to work anyway?

You must record these injuries and illnesses on the Cal/OSHA Form 300 using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician or other licensed health care professional. If a physician or other licensed health care professional recommends days away, you should encourage your employee to follow that recommendation. However, the days away must be recorded whether the injured or ill employee follows the physician or licensed health care professional's recommendation or not. If you receive recommendations from two or more physicians or other licensed health care professionals, you may make a decision as to which recommendation is the most authoritative, and record the case based upon that recommendation.

(C) How do I handle a case when a physician or other licensed health care professional recommends that the worker return to work but the employee stays at home anyway?

In this situation, you must end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work.

(D) How do I count weekends, holidays, or other days the employee would not have worked anyway?

You must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless of whether or not the employee was scheduled to work on those day(s). Weekend days, holidays, vacation days or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of a work-related injury or illness.

(E) How do I record a case in which a worker is injured or becomes ill on a Friday and reports to work on a Monday, and was not scheduled to work on the weekend?

You need to record this case only if you receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the weekend. If so, you must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.

(F) How do I record a case in which a worker is injured or becomes ill on the day before scheduled time off such as a holiday, a planned vacation, or a temporary plant closing?

You need to record a case of this type only if you receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the scheduled time off. If so, you must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.

(G) Is there a limit to the number of days away from work I must count?

Yes. You may "cap" the total days away at 180 calendar days. You are not required to keep track of the number of calendar days away from work if the injury or illness resulted in more than 180 calendar days away from work and/or days of job transfer or restriction. In such a case, entering 180 in the total days away column will be considered adequate.

(H) May I stop counting days if an employee who is away from work because of an injury or illness retires or leaves my company?

Yes. If the employee leaves your company for some reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, you may stop counting days away from work or days of restriction/job transfer. If the employee leaves your company because of the injury or illness, you must estimate the total number of days away or days of restriction/job transfer and enter the day count on the Cal/OSHA Form 300.

(I) If a case occurs in one year but results in days away during the next calendar year, do I record the case in both years?

No. You only record the injury or illness once. You must enter the number of calendar days away for the injury or illness on the Cal/OSHA Form 300 for the year in which the injury or illness occurred. If the employee is still away from work because of the injury or illness when you prepare the annual summary, estimate the total number of calendar days you expect the employee to be away from work, use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the 180-day cap.

(4) How do I record a work-related injury or illness that results in restricted work or job transfer?

When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, you must record the injury or illness on the Cal/OSHA Form 300 by placing a mark in the space for job transfer or restriction and an entry of the number of restricted or transferred days in the restricted workdays column.

(A) How do I decide if the injury or illness resulted in restricted work?

Restricted work occurs when, as the result of a work-related injury or illness:

1. You keep the employee from performing one or more of the routine functions of his or her job, or from working the full workday that he or she would otherwise have been scheduled to work; or

2. A physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to work.

(B) What is meant by "routine functions"?

For recordkeeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.

(C) Do I have to record restricted work or job transfer if it applies only to the day on which the injury occurred or the illness began?

No. You do not have to record restricted work or job transfers if you, or the physician or other licensed health care professional, impose the restriction or transfer only for the day on which the injury occurred or the illness began.

(D) If you or a physician or other licensed health care professional recommends a work restriction, is the injury or illness automatically recordable as a "restricted work" case?

No. A recommended work restriction is recordable only if it affects one or more of the employee's routine job functions. To determine whether this is the case, you must evaluate the restriction in light of the routine functions of the injured or ill employee's job. If the restriction from you or the physician or other licensed health care professional keeps the employee from performing one or more of his or her routine job functions, or from working the full workday the injured or ill employee would otherwise have worked, the employee's work has been restricted and you must record the case.

(E) How do I record a case where the worker works only for a partial work shift because of a work-related injury or illness?

A partial day of work is recorded as a day of job transfer or restriction for recordkeeping purposes, except for the day on which the injury occurred or the illness began.

(F) If the injured or ill worker produces fewer goods or services than he or she would have produced prior to the injury or illness but otherwise performs all of the routine functions of his or her work, is the case considered a restricted work case?

No. The case is considered restricted work only if the worker does not perform all of the routine functions of his or her job or does not work the full shift that he or she would otherwise have worked.

(G) How do I handle vague restrictions from a physician or other licensed health care professional, such as that the employee engage only in "light duty" or "take it easy for a week"?

If you are not clear about the physician or other licensed health care professional's recommendation, you may ask that person whether the employee can do all of his or her routine job functions and work all of his or her normally assigned work shift. If the answer to both of these questions is "Yes," then the case does not involve a work restriction and does not have to be recorded as such. If the answer to one or both of these questions is "No," the case involves restricted work and must be recorded as a restricted work case. If you are unable to obtain this additional information from the physician or other licensed health care professional who recommended the restriction, record the injury or illness as a case involving restricted work.

(H) What do I do if a physician or other licensed health care professional recommends a job restriction meeting the definition in Section 14300.7(b)(4)(A), but the employee does all of his or her routine job functions anyway?

You must record the injury or illness on the Cal/OSHA Form 300 as a restricted work case. If a physician or other licensed health care professional recommends a job restriction, you should ensure that the employee complies with that restriction. If you receive recommendations from two or more physicians or other licensed health care professionals, you may make a decision as to which recommendation is the most authoritative, and record the case based upon that recommendation.

(I) How do I decide if an injury or illness involved a transfer to another job?

If you assign an injured or ill employee to a job other than his or her regular job for part of the day, the case involves transfer to another job.

Note: This does not include the day on which the injury or illness occurred.

(J) Are transfers to another job recorded in the same way as restricted work cases?

Yes. Both job transfer and restricted work cases are recorded in the same box on the Cal/OSHA Form 300. For example, if you assign, or a physician or other licensed health care professional recommends that you assign, an injured or ill worker to his or her routine job duties for part of the day and to another job for the rest of the day, the injury or illness involves a job transfer. You must record an injury or illness that involves a job transfer by placing a check in the box for job transfer.

(K) How do I count days of job transfer or restriction?

You count days of job transfer or restriction in the same way you count days away from work, using Sections 14300.7(b)(3)(A) to (H), above. The only difference is that, if you permanently assign the injured or ill employee to a job that has been modified or permanently changed in a manner that eliminates the routine functions the employee was restricted from performing, you may stop the day count when the modification or change is made permanent. You must count at least one day of restricted work or job transfer for such cases.

(5) How do I record an injury or illness that involves medical treatment beyond first aid?

If a work-related injury or illness results in medical treatment beyond first aid, you must record it on the Cal/OSHA Form 300. If the injury or illness did not involve death, one or more days away from work, one or more days of restricted work, or one or more days of job transfer, you enter a mark in the box for cases where the employee received medical treatment but remained at work and was not transferred or restricted.

(A) What is the definition of medical treatment?

"Medical treatment" means the management and care of a patient to combat disease or disorder. For the purposes of Article 2, medical treatment does not include:

1. Visits to a physician or other licensed health care professional solely for observation or counseling;

2. The conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eye drops to dilate pupils); or

3. "First aid" as defined in subsection (b)(5)(B) of this section.

(B) What is "first aid"?

For the purposes of Article 2, "first aid" means the following:

1. Using a nonprescription medication at nonprescription strength (for medications available in both prescription and non-prescription form, a recommendation by a

physician or other licensed health care professional to use a non-prescription medication at prescription strength is considered medical treatment for recordkeeping purposes);

2. Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);

3. Cleaning, flushing or soaking wounds on the surface of the skin;

4. Using wound coverings such as bandages, Band-Aids™, gauze pads, etc.; or using butterfly bandages or Steri-Strips™ (other wound closing devices such as sutures, staples, etc. are considered medical treatment);

5. Using hot or cold therapy;

6. Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc. (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes);

7. Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, backboards, etc.);

8. Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;

9. Using eye patches;

10. Removing foreign bodies from the eye using only irrigation or a cotton swab;

11. Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;

12. Using finger guards;

13. Using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes); or

14. Drinking fluids for relief of heat stress.

(C) Are any other procedures included in first aid?

No. This is a complete list of all treatments considered first aid for purposes of Article 2.

(D) Does the professional status of the person providing the treatment have any effect on what is considered first aid or medical treatment?

No. The treatments listed in Section 14300.7(b)(5)(B) of this Article are considered to be first aid regardless of the professional status of the person providing the treatment. Even

when these treatments are provided by a physician or other licensed health care professional, they are considered first aid for the purposes of Article 2. Similarly, treatment beyond first aid is considered to be medical treatment even when it is provided by someone other than a physician or other licensed health care professional.

(E) What if a physician or other licensed health care professional recommends medical treatment but the employee does not follow the recommendation?

If a physician or other licensed health care professional recommends medical treatment, you should encourage the injured or ill employee to follow that recommendation. However, you must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation.

(6) Is every work-related injury or illness case involving a loss of consciousness recordable?

Yes. You must record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.

(7) What is a "significant" diagnosed injury or illness that is recordable under the general criteria even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness?

Work-related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of diagnosis by a physician or other licensed health care professional.

Note to Section 14300.7: Most significant injuries and illnesses will result in one of the criteria listed in Section 14300.7(a): death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. Cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses, and must be recorded at the initial diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.8. Recording Criteria for Needlestick and Sharps Injuries.

(a) Basic requirement. You must record all work-related needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (as defined by Title 8, Section 5193). You must enter the case on the Cal/OSHA Form 300 as an injury. To protect the employee's privacy, you may not enter the employee's name on the Cal/OSHA Form 300 (see the requirements for privacy cases in Subsections 14300.29(b)(6) through 14300.29(b)(9)).

Note: The requirements of this section are not limited to health care and related establishments.

(b) Implementation.

(1) What does "other potentially infectious material" mean?

The term "other potentially infectious materials" is defined in the standard for Bloodborne Pathogens at Title 8 Section 5193(b) and includes the following materials:

(A) Human bodily fluids, tissues and organs, and

(B) Other materials infected with the HIV, hepatitis B virus (HBV) or hepatitis C virus (HCV) such as laboratory cultures or tissues from experimental animals.

(2) Does this mean that I must record all cuts, lacerations, punctures, and scratches?

No. You need to record cuts, lacerations, punctures, and scratches only if they are work-related and involve contamination with another person's blood or other potentially infectious material. If the cut, laceration, or scratch involves a clean object, or a contaminant other than blood or other potentially infectious material, you need to record the case only if it meets one or more of the recording criteria in Section 14300.7.

(3) If I record an injury and the employee is later diagnosed with an infectious bloodborne disease, do I need to update the Cal/OSHA Form 300?

Yes. You must update the classification of the case on the Cal/OSHA Form 300 if the case results in death, days away from work, restricted work, or job transfer. You must also update the description to identify the infectious disease and change the classification of the case from an injury to an illness.

(4) What if one of my employees is splashed or exposed to blood or other potentially infectious material without being cut or scratched? Do I need to record this incident?

You need to record such an incident on the Cal/OSHA Form 300 as an illness if:

(A) It results in the diagnosis of a bloodborne illness, such as HIV, hepatitis B, or hepatitis C; or

(B) It meets one or more of the recording criteria in Section 14300.7.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.9. Recording Criteria for Cases Involving Medical Removal Under Cal/OSHA Standards.

(a) Basic requirement. If an employee is medically removed under the medical surveillance requirements of a Title 8 standard, you must record the case on the Cal/OSHA Form 300.

(b) Implementation.

(1) How do I classify medical removal cases on the Cal/OSHA Form 300?

You must enter each medical removal case on the Cal/OSHA Form 300 as either a case involving days away from work or a case involving restricted work activity, depending on how you decide to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, you must enter the case on the Cal/OSHA Form 300 by checking the "poisoning" column.

(2) Do all of Cal/OSHA's standards have medical removal provisions?

No. Some Title 8 standards, such as the standards covering bloodborne pathogens and noise, do not have medical removal provisions. Many Title 8 standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to, lead, cadmium, methylene chloride, formaldehyde, and benzene.

(3) Do I have to record a case where I voluntarily removed the employee from exposure before the medical removal criteria in a Cal/OSHA standard are met?

No. If the case involves voluntary medical removal before the medical removal levels required by a Cal/OSHA standard, you do not need to record the case on the Cal/OSHA Form 300.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.10. Recording Criteria for Cases Involving Occupational Hearing Loss.

From **[effective date of article]** until December 31, 2002 you are required to record a work-related hearing loss averaging 25 dB or more at 2000, 3000, and 4000 hertz in either ear on the Cal/OSHA Form 300. You must use the employee's original baseline audiogram for comparison. You may make a correction for presbycusis (aging) by using the table and instructions in Appendix F of Title 8 Article 105, Control of Noise Exposure.

Section 14300.11. Recording Criteria for Work-Related Tuberculosis Cases.

(a) Basic requirement. If any of your employees has been occupationally exposed to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, you must record the case on the Cal/OSHA Form 300 by checking the "respiratory condition" column.

(b) Implementation.

(1) Do I have to record, on the Cal/OSHA Form 300, a positive TB skin test result obtained at a pre-employment physical?

No. You do not have to record it because the employee was not occupationally exposed to a known case of active tuberculosis in your workplace.

(2) May I line-out or erase a recorded TB case if I obtain evidence that the case was not caused by occupational exposure?

Yes. You may line-out or erase the case from the Cal/OSHA Form 300 under the following circumstances:

(A) The worker is living in a household with a person who has been diagnosed with active TB;

(B) The Public Health Department has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace; or

(C) A medical investigation shows that the employee's infection was caused by exposure to TB away from work, or proves that the case was not related to the workplace TB exposure.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.12. Recording Criteria for Cases Involving Work-Related Musculoskeletal Disorders.

From **[effective date of article]** until December 31, 2002 you are required to record work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs in accordance with the requirements applicable to any injury or illness under Sections 14300.5, 14300.6, 14300.7, and 14300.29. For entry (M) on the Cal/OSHA Form 300, you must check either the entry for "injury" or for "all other illnesses."

Section 14300.13 - 14300.28 [Reserved]

Section 14300.29. Forms.

(a) Basic requirement. You must use Cal/OSHA 300, 300A, and 301 forms, or equivalent forms, for recordable injuries and illnesses. The Cal/OSHA Form 300 is called the Log of Work-Related Injuries and Illnesses, the Cal/OSHA Form 300A is called the Summary of Work-Related Injuries and Illnesses, and the Cal/OSHA Form 301 is called the Injury and Illness Incident Report. Appendices A through C give samples of the Cal/OSHA forms. Appendices D through F provide elements for development of equivalent forms consistent with Section 14300.29(b)(4) requirements. Appendix G is a worksheet to assist in completing the Cal/OSHA Form 300A.

(b) Implementation.

(1) What do I need to do to complete the Cal/OSHA Form 300?

You must enter information about your establishment at the top of the Cal/OSHA Form 300 by entering a one or two line description for each recordable injury or illness, and summarizing this information on the Cal/OSHA Form 300A at the end of the year.

(2) What do I need to do to complete the Cal/OSHA Form 301 Incident Report?

You must complete a Cal/OSHA 301 Incident Report form, or an equivalent form, for each injury or illness required to be entered on the Cal/OSHA Form 300.

(3) How quickly must each injury or illness be recorded?

You must enter each recordable injury or illness on the Cal/OSHA Form 300 and Cal/OSHA Form 301 Incident Report within seven (7) calendar days of receiving information that a recordable injury or illness has occurred.

(4) What is an equivalent form?

An equivalent form is one that has the same information, is as readable and understandable to a person not familiar with it, and is completed using the same instructions as the Cal/OSHA form it replaces.

(5) May I keep my records on a computer?

Yes. If the computer can produce equivalent forms when they are needed, as described under Sections 14300.35 and 14300.40, you may keep your records using a computer system.

(6) Are there situations where I do not put the employee's name on the forms for privacy reasons?

Yes. If you have a "privacy concern case," as described in subsection (b)(7) of this section, you may not enter the employee's name on the Cal/OSHA Form 300. Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the Cal/OSHA Form 300 under Section 14300.35(b)(2). You must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so you can update the cases and provide the information to the government if asked to do so.

(7) How do I determine if an injury or illness is a privacy concern case?

You must consider the following injuries or illnesses to be privacy concern cases:

(A) An injury or illness to an intimate body part or the reproductive system;

(B) An injury or illness resulting from a sexual assault;

(C) Mental illnesses;

(D) HIV infection, hepatitis, or tuberculosis;

(E) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see Section 14300.8 for definitions); and

(F) Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log. Musculoskeletal disorders (MSDs) are not considered privacy concern cases.

Note: The first sentence of subsection (b)(7)(F) of this section is effective on **[effective date of article]**. The second sentence is effective beginning on January 1, 2003.

(8) May I classify any other types of injuries and illnesses as privacy concern cases?

No. This is a complete list of all injuries and illnesses considered privacy concern cases for purposes of Article 2.

(9) If I have removed the employee's name, but still believe that the employee may be identified from the information on the forms, is there anything else that I can do to further protect the employee's privacy?

Yes. If you have a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, you may use discretion in describing the injury or illness on both the Cal/OSHA forms 300 and 301. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature. For example, a sexual assault case could be described as "injury from assault," or an injury to a reproductive organ could be described as "lower abdominal injury."

(10) What must I do to protect employee privacy if I wish to provide access to the Cal/OSHA forms 300 and 301 to persons other than government representatives, employees, former employees or authorized representatives?

If you decide to voluntarily disclose the forms to persons other than government representatives, employees, former employees or authorized representatives (as required by Sections 14300.35 and 14300.40), you must remove or hide the employees' names and other personally identifying information, except for the following cases. You may disclose the forms with personally identifying information only:

(A) to an auditor or consultant hired by the employer to evaluate the safety and health program;

(B) to the extent necessary for processing a claim for workers' compensation or other insurance benefits; or

(C) to a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR.164.512.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.30. Multiple Establishments.

(a) Basic requirement. You must keep a separate Cal/OSHA Form 300 for each establishment that is expected to be in operation for one year or longer.

(b) Implementation.

(1) Do I need to keep injury and illness records for short-term establishments (i.e., establishments that will exist for less than a year)?

Yes. However, you do not have to keep a separate Cal/OSHA Form 300 for each such establishment. You may keep one Cal/OSHA Form 300 that covers all of your short-term establishments. You may also include the short-term establishments' recordable injuries and illnesses on a Cal/OSHA Form 300 that covers short-term establishments for individual company divisions or geographic regions.

(2) May I keep the records for all of my establishments at my headquarters location or at some other central location?

Yes. You may keep the records for an establishment at your headquarters or other central location if you:

(A) Transmit information about the injuries and illnesses from the establishment to the central location within seven (7) calendar days of receiving information that a recordable injury or illness has occurred~~;~~.

Exception: If you have an establishment in SIC Code 781 and it is operated at a location that is remote from your central location, you must transmit the information to the central location within the lesser of 30 calendar days of learning of the injury or illness, or 7 calendar days of termination of operations at the remote location;

(B) Produce and send the records from the central location to the establishment within the time frames required by Section 14300.35 and Section 14300.40 when you are required to provide records to a government representative, employee, former employee or employee representative;

(C) Have the address and telephone number of the central location or headquarters where records are kept available at each worksite; and

(D) Have personnel available at the central location or headquarters where records are kept during normal business hours to transmit information from the records maintained there as required by Section 14300.35 and Section 14300.40.

(3) Some of my employees work at several different locations or do not work at any of my establishments at all. How do I record cases for these employees?

You must link each of your employees with one of your establishments, for recordkeeping purposes. You must record each injury and illness on the Cal/OSHA Form 300 of the injured or ill employee's establishment, or on a Cal/OSHA Form 300 that covers that employee's short-term establishment.

(4) How do I record an injury or illness when an employee of one of my establishments is injured or becomes ill while visiting or working at another of my establishments, or while working away from any of my establishments?

If the injury or illness occurs at one of your establishments, you must record the injury or illness on the Cal/OSHA Form 300 of the establishment at which the injury or illness occurred. If the employee is injured or becomes ill and is not at one of your establishments, you must record the case on the Cal/OSHA Form 300 for the establishment at which the employee normally works.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.31. Covered Employees.

(a) Basic requirement. You must record on the Cal/OSHA Form 300 the recordable injuries and illnesses of all employees on your payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. You also must record the recordable injuries and illnesses that occur to employees who are not on your payroll if you supervise these employees on a day-to-day basis. If your establishment is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes.

(b) Implementation.

(1) If a self-employed person is injured or becomes ill while doing work at my establishment, do I need to record the injury or illness?

No. Self-employed individuals are not covered by the Cal/OSHA Act or this regulation.

(2) If I obtain employees from a temporary help service, employee leasing service, or personnel supply service, do I have to record an injury or illness occurring to one of those employees?

You must record these injuries and illnesses if you supervise these employees on a day-to-day basis.

(3) If an employee in my establishment is a contractor's employee, must I record an injury or illness occurring to that employee?

If the contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness. If you supervise the contractor employee's work on a day-to-day basis, you must record the injury or illness.

(4) Must the personnel supply service, temporary help service, employee leasing service, or contractor also record the injuries or illnesses occurring to temporary, leased or contract employees that I supervise on a day-to-day basis?

No. You and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate your efforts to make sure that each injury and illness is recorded only once: either on your Cal/OSHA Form 300 (if you provide day-to-day supervision) or on the other employer's Cal/OSHA Form 300 (if that company provides day-to-day supervision).

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.32. Annual Summary.

(a) Basic requirement. At the end of each calendar year, you must:

(1) Review the Cal/OSHA Form 300 to verify that the entries are complete and accurate, and correct any deficiencies identified;

(2) Create an annual summary of injuries and illnesses recorded on the Cal/OSHA Form 300 using the Cal/OSHA Form 300A Annual Summary of Work-related Injuries and Illnesses;

(3) Certify the annual summary; and

(4) Post the annual summary.

(b) Implementation.

(1) How extensively do I have to review the Cal/OSHA Form 300 entries at the end of the year?

You must review the entries as extensively as necessary to make sure that they are complete and correct.

(2) How do I complete the annual summary?

You must:

(A) Total the columns on the Cal/OSHA Form 300 (if you had no recordable cases, enter zeros for each column total); and

(B) Enter the calendar year covered, the company's name, establishment name, establishment address, annual average number of employees covered by the Cal/OSHA

Form 300, and the total hours worked by all employees covered by the Cal/OSHA Form 300.

(C) If you are using an equivalent form other than the Cal/OSHA 300A, as permitted under Section 14300.29(b)(4), the annual summary you use must also include the employee access and employer penalty statements found on the Cal/OSHA Form 300A.

(3) How do I certify the annual summary?

A company executive must certify that he or she has examined the Cal/OSHA Form 300 and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded, that the annual summary is correct and complete.

(4) Who is considered a company executive?

The company executive who certifies the log must be one of the following persons:

(A) An owner of the company (this is required only if the company is a sole proprietorship or partnership);

(B) An officer of the corporation;

(C) The highest ranking company official working at the establishment; or

(D) The immediate supervisor of the highest ranking company official working at the establishment.

(5) How do I post the annual summary?

You must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the posted annual summary is not altered, defaced or covered by other material.

(6) When do I have to post the annual summary?

You must post the annual summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.

(7) What must be done for employees who do not normally report at least weekly to a location where the annual summary is posted for the establishment at which they work? Employers are required to present or mail the annual summary to each employee who receives pay during the February through April posting period who does not normally report at least weekly to a location where the annual summary is posted for the establishment to which they are linked for recordkeeping purposes as described at Section 14300.30(b)(3).

(8) Do I have to post the annual summary at locations where I no longer have operations or employees?

For multi-establishment employers where operations have closed down in some establishments during the calendar year, it will not be necessary to post summaries for those establishments.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.33. Retention and Updating.

(a) Basic requirement. You must save the Cal/OSHA Form 300, the privacy case list (if one exists), the Cal/OSHA Form 300A, and the Cal/OSHA Form 301 Incident Reports for five (5) years following the end of the calendar year that these records cover.

(b) Implementation.

(1) Do I have to update the Cal/OSHA 300 Form during the five-year storage period?

Yes. During the storage period, you must update your stored Cal/OSHA 300 forms to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, you must remove or line out the original entry and enter the new information.

(2) Do I have to update the Cal/OSHA 300A Annual Summary of Work-related Injuries and Illnesses?

No. You are not required to update the annual summary, but you may do so if you wish.

(3) Do I have to update the Cal/OSHA 301 Incident Reports?

No. You are not required to update the Cal/OSHA 301 Incident Reports, but you may do so if you wish.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.34. Change in Establishment Ownership.

If your establishment changes ownership, you are responsible for recording and reporting work-related injuries and illnesses only for that period of the year during which you owned the establishment. You must transfer the records required by this article to the new owner. The new owner must save all records of the establishment kept by the prior

owner, as required by Section 14300.33 of this Article, but need not update or correct the records of the prior owner.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.35. Employee Involvement.

(a) Basic requirement. Your employees and their representatives must be involved in the recordkeeping system in several ways.

(1) You must inform each employee of how he or she is to report an injury or illness to you.

(2) You must provide limited access to your injury and illness records for your employees and their representatives.

(b) Implementation.

(1) What must I do to make sure that employees report work-related injuries and illnesses to me?

(A) You must set up a way for employees to report work-related injuries and illnesses promptly; and

(B) You must tell each employee how to report work-related injuries and illnesses to you.

(2) Do I have to give my employees and their representatives access to the injury and illness records required by this article?

Yes. Your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the injury and illness records required by this article, with some limitations, as discussed below.

(A) Who is an authorized employee representative?

An authorized employee representative is an authorized collective bargaining agent of employees.

(B) Who is a "personal representative" of an employee or former employee?

A personal representative is:

1. Any person that the employee or former employee designates as such, in writing; or

2. The legal representative of a deceased or legally incapacitated employee or former employee.

(C) If an employee or his or her representative asks for access to the Cal/OSHA Form 300 and annual summary when do I have to provide it?

When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored Cal/OSHA 300 forms or a current or stored annual summary for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant Cal/OSHA 300 forms and annual summaries by the end of the next business day.

Exception: If your establishment is in SIC Code 781, you must give the requester the information within 7 calendar days.

(D) May I remove the names of the employees or any other information from the Cal/OSHA Form 300 before I give copies to an employee, former employee, or employee representative?

No. You must leave the names on the Cal/OSHA Form 300. However, to protect the privacy of injured and ill employees, you may not record the employee's name on the Cal/OSHA Form 300 for certain "privacy concern cases," as specified in Sections 14300.29(b)(6) through 14300.29(b)(9).

(E) If an employee or representative asks for access to the Cal/OSHA 301 Incident Report, when do I have to provide it?

1. When an employee, former employee, or personal representative asks for a copy of the Cal/OSHA Form 301 Incident Report describing an injury or illness to that employee or former employee, you must give the requester a copy of the Cal/OSHA 301 Incident Report containing that information by the end of the next business day.

Exception: If your establishment is in SIC Code 781, you must give the requester the information within 7 calendar days.

2. When an authorized employee representative asks for copies of the Cal/OSHA 301 Incident Reports or equivalent forms for an establishment where the agent represents employees under a collective bargaining agreement, you must give copies of those forms to the authorized employee representative within seven (7) calendar days but with the following personally identifying information deleted:

1. Name;

2. Address;

3. Date of birth;

4. Date of hire;

5. Gender;

6. Name of physician;

7. Location where treatment was provided;

8. Whether the employee was treated in an emergency room; and

9. Whether the employee was hospitalized overnight as an in-patient.

(F) May I charge for the copies?

No. You may not charge for these copies the first time they are provided. However, if one of the designated persons asks for additional copies, you may assess a reasonable charge for retrieving and copying the records.

(c) With the exception of provisions to protect the privacy of employees in subsections (b)(2)(D) and (b)(2)(E) of this section and in subsections (b)(6) through (b)(10) in Section 14300.29, nothing in this section shall be deemed to preclude employees and employee representatives from collectively bargaining to obtain access to information relating to occupational injuries and illnesses in addition to the information made available under this section.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.36. Prohibition Against Discrimination.

Section 11(c) of the Act and Sections 6310 and 6311 of the Labor Code prohibit you from discriminating against an employee for reporting a work-related fatality, injury, or illness. These provisions of the Labor Code also protect the employee who files a safety and health complaint, asks for access to records required by this article, or otherwise exercises any rights afforded by the Act or Sections 6310 and 6311 of the Labor Code.

NOTE: Authority cited: Sections 50.7, 6410, Labor Code. Reference: Sections 50.7, 98.7, 6310, 6311, 6410, Labor Code.

Section 14300.38. Variances from the Recordkeeping Rule.

(a) Basic requirement for private employers. If you are a private employer and wish to keep records in a different manner from the manner prescribed by the provisions of this article, you may submit a variance petition to the Assistant Secretary of Labor for Occupational Safety and Health (Assistant Secretary), U. S. Department of Labor,

Washington, DC 20210. You can obtain a variance only if you can show that your alternative recordkeeping system:

(1) Collects the same information as this article requires;

(2) Meets the purposes of the Act; and

(3) Does not interfere with the administration of the Act.

(b) Implementation of the basic requirement for private employers.

(1) What do I need to include in my variance petition?

You must include the following items in your petition:

(A) Your name and address;

(B) A list of the State(s) where the variance would be used;

(C) The address(es) of the establishment(s) involved;

(D) A description of why you are seeking a variance;

(E) A description of the different recordkeeping procedures you propose to use;

(F) A description of how your proposed procedures will collect the same information as would be collected by the provisions of this article and achieve the purpose of the Act; and

(G) A statement that you have informed your employees of the petition by giving them or their authorized representative a copy of the petition and by posting a statement summarizing the petition in the same way as notices are posted under Title 8 Section 340.

(2) How will the Assistant Secretary handle my variance petition?
The Assistant Secretary will take the following steps to process your variance petition.

(A) The Assistant Secretary will offer your employees and their authorized representatives an opportunity to submit written data, views, and arguments about your variance petition.

(B) The Assistant Secretary may allow the public to comment on your variance petition by publishing the petition in the Federal Register. If the petition is published, the notice will establish a public comment period and may include a schedule for a public meeting on the petition.

(C) After reviewing your variance petition and any comments from your employees and the public, the Assistant Secretary will decide whether or not your proposed recordkeeping procedures will meet the purposes of the Act, will not otherwise interfere with the Act, and will provide the same information as required by the provisions of this article provide. If your procedures meet these criteria, the Assistant Secretary may grant the variance subject to such conditions as he or she finds appropriate.

(D) If the Assistant Secretary grants your variance petition, OSHA will publish a notice in the Federal Register to announce the variance. The notice will include the practices the variance allows you to use, any conditions that apply, and the reasons for allowing the variance.

(3) If I apply for a variance, may I use my proposed recordkeeping procedures while the Assistant Secretary is processing the variance petition?

No. Alternative recordkeeping practices are only allowed after the variance is approved. You must comply with the provisions of this article while the Assistant Secretary is reviewing your variance petition.

(4) If I have already been cited by the Division of Occupational Safety and Health for not following the provisions of this article, will my variance petition have any effect on the citation and penalty?

No. In addition, the Assistant Secretary may elect not to review your variance petition if it includes an element for which you have been cited and the citation is still under review by a court, an Administrative Law Judge (ALJ), or the California Occupational Safety and Health Appeals Board.

(5) If I receive a variance, may the Assistant Secretary revoke the variance at a later date?

Yes. The Assistant Secretary may revoke your variance if he or she has good cause. The procedures revoking a variance will follow the same process as are used for reviewing variance petitions, as outlined in Section 14300.38(b)(2). Except in cases of willfulness or where necessary for public safety, the Assistant Secretary will:

(A) Notify you in writing of the facts or conduct that may warrant revocation of your variance; and

(B) Provide you, your employees, and authorized employee representatives with an opportunity to participate in the revocation procedures.

(c) Variances from the recordkeeping rule for public employers. A public agency employer wishing to keep records in a different manner from the manner prescribed in this article may write a letter to the Chief of the Division of Labor Statistics and Research stating his or her request. Such requests should include the information described in subsection (b)(1) of this section for private employer requests for variances from

requirements of this article. The provisions of subsections (b)(2) through (b)(5) of this section will also apply to variance requests from public agency employers except that the determining authority will be the Chief of the Division of Labor Statistics and Research.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.40. Providing Records to Government Representatives.

(a) Basic requirement. When an authorized government representative asks for the records you keep under the provisions of this article, you must provide within four (4) business hours, access to the original recordkeeping documents requested as well as, if requested, one set of copies free of charge.

Exception: If your establishment is in SIC Code 781, you must make a reasonable effort to comply as required by this section within 4 business hours of receiving the request. If it is not possible to comply with that deadline with reasonable effort, you must comply no later than by the end of the next business day.

(b) Implementation.

(1) What government representatives have the right to get copies of the records I keep as required by Article 2?

The government representatives authorized to receive the records are:

(A) A representative of the Chief of the Division of Occupational Safety and Health, or of the Director of the Department of Health Services;

(B) A representative of the Secretary of the U.S. Department of Labor conducting an inspection or investigation under the Act; and

(C) A representative of the Secretary of the U.S. Department of Health and Human Services (including the National Institute for Occupational Safety and Health - NIOSH) conducting an investigation under Section 20(b) of the Act;

(2) Do I have to produce the records within four (4) hours if my records are kept at a location in a different time zone?

Your response will be considered to be timely if you give the records to the government representative within four (4) business hours of the request. If you maintain the records at a location in a different time zone, you may use the business hours of the establishment at which the records are located when calculating the deadline.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.41. Annual OSHA Injury and Illness Survey.

(a) Basic requirement. If you receive OSHA's annual survey form, you must fill it out and send it to OSHA or OSHA's designee, as stated on the survey form. You must report the following information for the year described on the form:

(1) the number of workers you employed;

(2) the number of hours worked by your employees; and

(3) the requested information from the records that you keep under the provisions of this article.

(b) Implementation.

(1) Does every employer have to send data to OSHA or its designee?

No. Each year, OSHA or its designee sends injury and illness survey forms to employers in certain industries. In any year, some employers will receive an OSHA survey form and others will not. You do not have to send injury and illness data to OSHA or its designee unless you receive a survey form.

(2) How quickly do I need to respond to an OSHA survey form?

You must send the survey reports to OSHA or its designee by mail or other means described in the survey form, within 30 calendar days, or by the date stated in the survey form, whichever is later.

(3) Do I have to respond to an OSHA survey form if I am normally exempt from keeping OSHA injury and illness records?

Yes. Even if you are exempt from keeping injury and illness records under Section 14300.1 to Section 14300.3, OSHA or its designee may inform you in writing that it will be collecting injury and illness information from you in the following year. If you receive such a letter, you must keep the injury and illness records required by this article and make a survey report for the year covered by the survey.

(4) Do I have to answer the OSHA survey form if I am located in a State-Plan State?

Yes. All employers who receive survey forms must respond to the survey, even those in State-Plan States.

(5) Does this section affect the Division of Occupational Safety and Health's authority to inspect my workplace?

No. Nothing in this section affects the Division of Occupational Safety and Health's statutory authority to investigate conditions related to occupational safety and health.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.42. Requests from the Bureau of Labor Statistics for Data.

(a) Basic requirement. If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS), or a BLS designee, you must promptly complete the form and return it following the instructions contained on the survey form.

(b) Implementation.

(1) Does every employer have to send data to the BLS?

No. Each year, the BLS sends injury and illness survey forms to randomly selected employers and uses the information to create the Nation's occupational injury and illness statistics. In any year, some employers will receive a BLS survey form and others will not. You do not have to send injury and illness data to the BLS unless you receive a survey form.

(2) If I get a survey form from the BLS, what do I have to do?

If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS), or a BLS designee, you must promptly complete the form and return it, following the instructions contained on the survey form.

(3) Do I have to respond to a BLS survey form if I am normally exempt from keeping injury and illness records as required by this article?

Yes. Even if you are exempt from keeping injury and illness records under one or more of the provisions of Section 14300.1 to Section 14300.3, the BLS may inform you in writing that it will be collecting injury and illness information from you in the coming year. If you receive such a letter, you must keep the injury and illness records required by this article and make a survey report for the year covered by the survey.

(4) Do I have to answer the BLS survey form if I am located in a State-Plan State?

Yes. All employers who receive a survey form must respond to the survey, even those in State-Plan States.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.43. Annual Summary and Posting of the 2001 Data.

(a) Basic requirement. If you were required to keep Cal/OSHA Form 200 in 2001, you must post a 2001 annual summary from the Cal/OSHA Form 200 of occupational injuries and illnesses for each establishment.

(b) Implementation.

(1) What do I have to include in the annual summary?

(A) You must include a copy of the totals from the 2001 Cal/OSHA Form 200 Log and Summary and the following information from that form:

1. The calendar year covered;

2. Your company name;

3. The name and address of the establishment; and

4. The certification signature, title and date.

(B) If no injuries or illnesses occurred at your establishment in 2001, you must enter zeros on the totals line and post the 2001 annual summary.

(2) When am I required to summarize and post the 2001 information?

(A) You must complete the annual summary by February 1, 2002; and

(B) You must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the annual summary is not altered, defaced or covered by other material.

(3) You must post the 2001 annual summary from February 1, 2002 to March 1, 2002.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.44. Retention and Updating of Old Forms.

You must save your copies of the Cal/OSHA 200 forms and supplementary records for each occupational injury or illness for five years following the year to which they relate and continue to provide access to the data as though these forms were the Cal/OSHA 300 and 301 forms, as provided for in Section 14300.35 and Section 14300.40. You are not required to update your old Cal/OSHA 200 forms and supplementary records.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.46. Definitions.

The Act. The Act means the federal Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.). The definitions contained in Section 3 of the Act (29 U.S.C. 652) and related interpretations apply to such terms when used in this article.

Authorized representative. See subsection 14300.35(b)(2)(A).

BLS. The Bureau of Labor Statistics in the U. S. Department of Labor.

Cal/OSHA. The California Occupational Safety and Health Program within the California Department of Industrial Relations.

Company. A public or private employer.

Covered employees. See Section 14300.31.

Equivalent form. See subsection 14300.29(b)(4).

Establishment. An establishment is a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary services; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.

(A) Can one business location include two or more establishments?

Normally, one business location has only one establishment. Under limited conditions, the employer may consider two or more separate establishments that share a single location to be separate establishments. An employer may divide one location into two or more establishments only when:

1. Each of the establishments represents a distinctly separate business;

2. Each establishment is engaged in a different economic activity;

3. No one industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments; and

4. Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For

example, if an employer operates a construction company at the same location as a lumberyard, the employer may consider each business to be a separate establishment.

(B) Can an establishment include more than one physical location?

Yes, but only under certain conditions. An employer may combine two or more physical locations into a single establishment only when:

1. The employer operates the locations as a single business operation under common management;

2. The locations are all located in close proximity to each other; and

3. The employer keeps one set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

(C) If an employee telecommutes from home, is his or her home considered a separate establishment?

No. For employees who telecommute from home, the employee's home is not an establishment and a separate Cal/OSHA Form 300 is not required. Employees who telecommute must be linked to one of your establishments under Section 14300.30(b)(3).

Fatality. Any occupational injury or illness which results in death, regardless of the time between injury and death, or the length of the illness.

First aid. See subsection 14300.7(b)(5)(B).

General recording criteria. See Section 14300.7.

Injury or illness. An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Injuries and illnesses are recordable only if they are new, work-related cases that meet one or more of recording criteria provisions in this article.)

Job transfer. See subsection 14300.7(b)(4).

Medical treatment. See subsection 14300.7(b)(5)(A).

New case. See Section 14300.6.

OSHA. The Occupational Safety and Health Administration in the U. S. Department of Labor.

Personal representative. See subsection 14300.35(b)(2)(B).

Physician or other licensed health care professional. A physician or other licensed health care professional is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.

Pre-existing condition. See subsection 14300.5(b)(5).

Privacy concern case. See subsection 14300.29(b)(6.

Recordable. An injury or illness is "recordable" for the purposes of this article if it satisfies the conditions requiring recording found in subsection (a) of Section 14300.4.

Routine functions. See subsection 14300.7(b)(4)(B).

Restricted work. See subsection 14300.7(b)(4)(A).

Significant injury or illness. See subsection 14300.7(b)(7).

Work environment. See subsection 14300.5(b)(1).

You. "You" means an employer as defined by Sections 3300 and 3301 of the Labor Code.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.47. Recordkeeping Requirements for Employers Covered by the Federal Mine Safety and Health Act.

Employers whose employees' occupational injuries and illnesses are required to be recorded under the Federal Mine Safety and Health Act of 1977 are not required to comply with the recordkeeping requirements of this article to the extent that so complying would result in duplicating information, provided access to the records required by Code of Federal Regulations, Title 30, Chapter 1, Subchapter I, commencing with Section 50.20 is granted to authorized representatives of the official mine safety agency of the State.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.48. Effective Date.

The provisions of this article take effect on January 1, 2002 or on the effective date of the regulation, whichever is later.

NOTE: Authority cited: Section 6410, Labor Code. Reference: Section 6410, Labor Code.

HISTORY: 1. Amendment filed 1-13-83; effective thirtieth day thereafter (Register 83, No. 3).

Appendices

Appendix A - Cal/OSHA Form 300

Appendix B - Cal/OSHA Form 300A

Appendix C - Cal/OSHA Form 301

Appendix D - Required Elements for the Cal/OSHA Form 300

Appendix E - Required Elements for the Cal/OSHA Form 300A

Appendix F - Required Elements for the Cal/OSHA Form 301

Appendix G - Optional Worksheet for the Cal/OSHA Form 300A